



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,260	12/22/2003	Eric C. Steindorf	KCX-771 (19263)	4463
22827	7590	04/04/2006		
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			EXAMINER PATEL, NIHIR B	
			ART UNIT	PAPER NUMBER

3743

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/743,260	Applicant(s) STEINDORF, ERIC C.	
	Examiner Nihir Patel	Art Unit 3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01.09.2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 6-9, 11, 14, 17-19, 21-24, 26 and 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 10, 12, 13, 15, 16, 20 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed on January 9<sup>th</sup>, 2006, with respect to claims 1-5, 10, 12, 13, 15, 16, 20 and 25 have been fully considered and are persuasive. The previous office action dating October 5<sup>th</sup>, 2005 has been withdrawn.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims **1-3, 5, 10, 12, 13, 20 and 25** are rejected under 35 U.S.C. 102(b) as being anticipated by Baumann et al. (US 6,354,296).

4. **As to claim 1**, Baumann teaches a face mask comprising a body portion configured to be placed over the mouth and at least part of a nose of a user in order to isolate the mouth and the at least part of the nose of the user from the environment (**see figure 3**) such that the air of respiration is drawn through the body portion, the body portion having a baffle layer **12** having an outer and an inner surfaces that define a plurality of channels on the baffle layer configured for channeling fluid to different locations on the baffle layer (**see column 4 lines 45-55**), the baffle layer configured to aid in absorbing energy associated with fluid striking the body portion and to prevent fluid strike through.

5. **As to claim 2**, Baumann teaches a face mask wherein the channels are inter connected and are defined by the projections and the outer surface of the baffle layer, the channels having

Art Unit: 3743

an orientation such that the fluid is directed laterally away from the point of impact of the fluid through the channels (see **column 4 lines 45-55 and figures 5a and 5b**).

6. **As to claim 3**, Baumann teaches a face mask wherein the body portion has a first layer contacting the projections of the baffle layer; and the body portion has a third layer contacting the inner surface of the baffle layer (see **figures 4a and 4b**).

7. **As to claim 5**, Baumann teaches a face mask wherein the projections are circular pillows (see **figures 5a and 5b**).

8. **As to claim 10**, Baumann teaches a face mask wherein the plurality of projections extend from the outer surface of the baffle layer (see **figures 4a and 4b; see column 4 lines 10-20**).

9. **As to claim 12**, Baumann teaches a face mask comprising a body portion configured to be placed over the mouth and at least part of a nose of a user in order to isolate the mouth and the at least part of the nose of the user from the environment (see **figure 3**) such that the air of respiration is drawn through the body portion, the body portion having at least one layer, the layer having an outer surface facing away from the user when worn and an inner surface facing towards the user when worn (see **figures 3, 4a and 4b**), the layer having a plurality of projections extending therefrom, the projections aiding in absorbing energy associated with fluid striking the body portion, wherein the projections define a plurality of channels on the layer configured for channeling fluid to different locations on the layer (see **column 4 lines 45-55**).

10. **As to claim 13**, Baumann teaches a face mask wherein the body portion has an inner facing layer contacting the skin of the user when worn, an outer facing layer, and a filtration media layer disposed between the inner facing layer and the outer facing layer, wherein the layer

with the plurality of projections is any one of the inner facing layer, outer facing layer, and filtration media layer (see column 3 lines 55-65).

11. As to claim 20, Baumann teaches a face mask wherein the projections are circular pillows (see figures 5a and 5b).

12. As to claim 25, Baumann teaches a face mask wherein the plurality of projections extend from the outer surface of the layer having the projections (see figures 5a and 5b).

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

15. Claims 4, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baumann et al. (US 6,354,296) in view of Niemeyer (US 4,951,664).

16. As to claims 4, 15 and 16, Baumann discloses the applicant's invention as claimed with the exception of providing a first layer/additional layer stiffer than the baffle layer. Niemeyer discloses an apparatus that does provide a first layer/additional layer stiffer than the baffle layer.

Art Unit: 3743

Therefore it would have been obvious to modify Baumann's invention by providing a first layer/additional layer stiffer than the baffle layer as taught by Niemeyer in order to seal an expanding and contracting perimeter to the skin of the face.

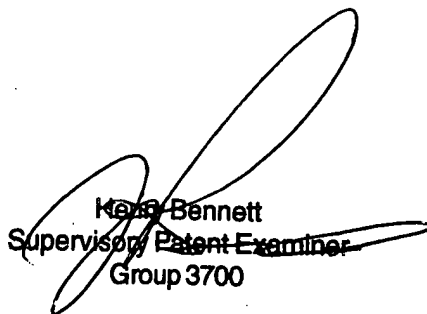
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nihir Patel whose telephone number is (571) 272-4803. The examiner can normally be reached on 7:30 to 4:30 every other Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on (571) 272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nihir Patel  
Art Unit 3743

  
Henry Bennett  
Supervisor, Patent Examiner  
Group 3700